IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In Re Serial No. 75/005,969

Mark: Color Purple
Filed: October 16, 1995
Published: February 4, 2003 at TM 221

EXXON MOBIL CORPORATION,

Opposer,

V.

ROYAL PURPLE, INC.

Applicant.

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NOTICE OF OPPOSITION

Exxon Mobil Corporation ("Opposer"), a New Jersey corporation having a principal place of business at 5959 Las Colinas Boulevard, Irving, Texas, 75039-2298, believes that it will be damaged by registration of the mark identified above, and hereby opposes same under the provisions of 15 U.S.C. § 1063. As grounds for opposition, Opposer asserts that:

- Opposer is one of the world's leading integrated petroleum companies.
 Opposer makes and sells a variety of refined petroleum (and other) products, including greases, oils, other lubricants, and hydraulic fluids. Some of Opposer's products are the color purple as sold.
- Applicant has applied to register the color purple as a trademark for "lubricants
 oils for automotive uses and lubricants for industrial and household uses," Serial No.
 07/23/2003 KGIBBONS 00000179 051705 75005969

75/005,969. Applicant filed its application on October 16, 1995, alleging a date of first use in June 1985 and a date of first use in commerce in June 1985, and the application was published for opposition on February 4, 2003. Opposer has been granted extensions of time through June 4, 2003, and has requested--with consent--an extension of time through Friday, July 4, 2003 (a federal holiday) within which to file a Notice of Opposition.

- 3. The color purple is not inherently distinctive as applied to Applicant's goods.
- 4. The color purple is merely ornamental as applied to Applicant's goods.
- 5. The color purple has not become distinctive of Applicant's goods in commerce. Opposer has long sold similar or related products, including hydraluic fluids for aircraft, in the color purple. In fact, on information and belief, Opposer's use of the color purple in connection with such products predates Applicant's.
- 6. Opposer believes that further investigation and/or discovery is likely to show that others have also long sold similar or related products, including greases, oils, and other lubricants, in the color purple.
- 7. Opposer would be damaged by issuance of the subject registration because it would purport to give Applicant prima facie evidence of the exclusive right to use the color purple for Applicant's goods, which would be inconsistent with Opposer's long use of, and right to use, purple in connection with Opposer's products.

WHEREFORE, Opposer prays that Application Serial No. 75/005,969 be rejected, and that registration of the mark therein be refused.

A duplicate copy of this Notice of Opposition is being filed herewith. The filing fee required by 37 C.F.R. § 2.6(a)(17) may be charged to the Deposit Account of Exxon Mobil Corporation, Account No. 05-1705.

Respectfully submitted,

Date: July 7, 200)

William R. Cohrs
Melody L. Schottle
EXXON MOBIL CORPORATION
5959 Las Colinas Boulevard

Irving, Texas 75039-2298

Willen & Colus

(972) 444-1412 (972) 444-1418

ATTORNEYS FOR OPPOSER

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on July 7, 2003.

Villiam R. Cohrs

Date: July 7, 2003

Exxon Mobil Corporation

5959 Las Colinas Boulevard Irving, Texas 75039-2298 972 444 1412 Telephone 972 444 1433 Facsimile

William R. Cohrs Counsel

ExonMobil July 7, 2003

Box TTAB FEE Commissioner for Trademarks 2900 Crystal Drive Arlington, Virginia 22202-3513 07-11-2003

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #22

Re:

Notice of Opposition

Serial No. 75/005,969 Mark: COLOR PURPLE

Opposer: Exxon Mobil Corporation

Applicant: Royal Purple, Inc.

Dear Madam:

Enclosed for filing by Exxon Mobil Corporation in connection with the above-referenced matter is an original and one copy of Notice of Opposition. Also enclosed is our pre-addressed return postcard, to which we request that the mail room stamp be affixed, and which should then be returned to us.

Please charge the applicable filing fee to the Deposit Account of Exxon Mobil Corporation, Account No. 05-1705.

Thank you for your assistance and cooperation in this matter.

Very truly yours,

William R. Cohrs

Mark Colum

WRC:dln Enclosures

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Date: July 7, 200 3